



Senator Feinstein Cosponsors Collins-Lieberman
Intelligence Reform Legislation
September 27, 2004

Washington, DC – U.S. Senator Dianne Feinstein today cosponsored legislation by Senators Susan Collins (D-Maine) and Joseph Lieberman (D-Conn.) to reform the nation's intelligence program by establishing a National Intelligence Director who has budgetary, statutory and personnel authority over the 15 intelligence agencies.

Senator Feinstein first introduced legislation to create such a post in June 2002 and reintroduced similar legislation in the current Congress in 2003. In addition to cosponsoring the new bill, the National Intelligence Reform Act, which is now being considered by the Senate, Senator Feinstein cautioned against adding unrelated "poison pill" amendments included in the version of the bill before the House of Representatives. The following is Senator Feinstein's Statement as Delivered on the Floor of the Senate:

"Madam President, I thank the distinguished ranking member. Let me begin by thanking the chairman of the committee, the distinguished Senator from Maine, the ranking member, Senator Lieberman, and the Governmental Affairs Committee for a very good bill.

As a member of the Intelligence Committee, one who has been for the concept of a strong, independent director of national intelligence for 3 years now, I was surprised to see the strong quality of the product that came out, because this committee has actually entered into some of the nitty-gritty and tried to come up with solutions that would stand the test of time. I thank them for their work.

It has been excellent work, and it puts a product before the Senate that we can all be proud to discuss. It contains no poison pills. It is a straight bill. It deals with the subject at hand in a very meaningful way.

As I mentioned, I have believed for some time now that the way in which our intelligence community is structured is really fundamentally flawed. It is unsuited for the 21st century, when we are not talking about intelligence agencies of large powers but we are talking about asymmetric terror.

In the context of intelligence, we have seen three comprehensive investigations into recent failures of the intelligence community. Senator Collins, Senator Lieberman, and Senator Rockefeller have mentioned many of them.

Certainly, there was the joint inquiry of the House and Senate Intelligence Committees into the attacks of September 11.

There was the Senate Select Committee on Intelligence investigation, resulting in a 300-page report that we recently completed, which investigated and reported on the intelligence, the findings, and the recommendations -- all related to weapons of mass destruction in Iraq.

Then, of course, there was the 9/11 Commission, which investigated the attacks on 9/11, a very comprehensive report and review, which has, frankly, brought most of the decision-makers, as well as the country, into alignment with the concept that we do need a strong national director of intelligence.

In each of these cases there were explicit and implicit findings that touched on how our intelligence community could fail so badly. Issues of funding, of education, of risk taking, and, frankly, of plain incompetence surfaced. Even today, there is still denial that many of the findings of weapons of mass destruction were simply wrong, deeply flawed, or bad. This will need to be remedied.

In my view, these failings were symptoms of a failed structure; again, of a structure that was built for the last century's conflicts and unsuited to this new war of asymmetric terror.

I believe the most important steps needed to address these structural failings revolve around the office of the Director of Central Intelligence, known as the DCI.

Up to this point, there has been a nominal head but a head of the Intelligence Community without the necessary authority. That post carries two handicaps. Those are built into its structure and, I believe, lead that structure to fail.

First, the individual serving as DCI has two basic, incompatible jobs: leader of the intelligence community, which includes 15 often fractious Agencies and Departments, and in that role is the principal intelligence adviser also to the President; and leader of the Central Intelligence Agency, which is, of course, only one of the 15 agencies which make up that big fractious community.

These two jobs are not compatible. They each take up far too much time. They each require a laser-like focus on its own unique mission. Worse yet, they can be in direct conflict, because the needs of the intelligence community in terms of mission, resources, and strategy may not be exactly what is wanted by the Central Intelligence Agency.

The problem is that the Intelligence Community and the Central Intelligence Agency both need and deserve full-time leaders. That, of course, is the heart of the argument for this bill.

Secondly, even under the current structure, the DCI lacks basic tools needed to run any large institution in Washington. And what are they? Budget, personnel, and statutory authority.

Under current law, the DCI nominally is charged with administering the money and people who make up the intelligence community and for formulating a budget presented to us in the Congress.

Today, in reality, the DCI has little control of much of that budget, with more than 80 percent actually controlled by the Secretary of Defense. He is unable to move personnel, or shift strategic focus, in an effective way. One chilling example was revealed by the investigations into 9/11, where DCI Tenet issued an order declaring war on Al Qaeda in 1999, only to find in 2001 that few outside the CIA even heard about it, much less listened to it.

The solution to the second problem is to ensure that the position of intelligence community director is provided with real budget authority, real personnel authority, and real authority to set strategy and policy, and this bill does that. I am very thankful for that.

The bill before us today builds on these earlier efforts and I strongly believe accomplishes the basic and necessary goals.

The bill creates a national intelligence director, separate from the CIA Director. The bill invests this director with meaningful budget authority, effective personnel authority, and the ability to set strategy for the entire intelligence community. And it ensures that the national intelligence director can set priorities for intelligence collection and analysis, and manage tasking across all 15 agencies to ensure that it gets done and done right.

One of the Senate Intelligence Committee's findings in our report was that the collection and analysis that went into the compilation of the national intelligence estimate was deeply flawed, and that there were differences of opinion between agencies, whether it was aluminum tubes, where the Energy Department's intelligence and the CIA's differed, or whether it was with the unmanned aerial vehicles, where the intelligence agencies of the Air Force and the CIA differed, or whether it had to do with biological mobile labs, where the Secretary of State went out before the United Nations with deeply flawed intelligence. But the analysis and collection of that intelligence had deep flaws, which made it bad intelligence.

This bill provides the national intelligence director also with a general counsel, inspector general, chief financial officer, human resources officer, and chief information officer, who together can ensure that effective organization and guidance can flow through the entire community. That is a good thing.

I will support the bill because I believe it accomplishes the task at hand: making necessary changes to our intelligence community structure.

That said, I believe there is some room for improvement. I want to take a few minutes to talk about that, and I want to offer to continue to work with my colleagues to improve this bill during this next week. Let me give you some of the things I am concerned about.

First, I am concerned that the bill leaves ambiguous the relationship between the new national intelligence director and the Federal Bureau of Investigation. Let me give you some specifics.

The bill incorporates, with no change, current law, which defines the role of the FBI's intelligence activities into this new bill. However, the current law is confusing, it is internally inconsistent, and it is a source of many of the problems that beset the FBI as a part of the intelligence community. I believe we must clarify this to do three things:

First, we have to make it absolutely clear that counterintelligence investigations that involve the plans, intentions and capabilities of foreign nations and organizations, including terrorist groups, are part of the National Intelligence Program and thus under the overall supervision of the National Intelligence Director.

This bill does not yet do that. For instance, the investigation of suspicious individuals taking flight lessons prior to September 11, which resulted in the ill-fated Phoenix memo, should clearly be a part of the intelligence community's responsibilities.

Second, we should establish in law the FBI's Office of Intelligence. The office of intelligence is created on page 7, with a mention under the programs of the bill. But it is not further defined anywhere in the bill. I suggest that it be defined on page 127, line 20, of the bill, and that it be defined to make it crystal clear that within the FBI this office is the source of authority and guidance for the intelligence activities of the FBI. Third, we should recognize in law that old, rigid divisions between law enforcement and intelligence make no sense. This can be accomplished by clarifying the definition section of the bill to remove the old 'carve out' for 'counterintelligence and law enforcement' activities within the FBI.

For example, an FBI investigation into the activities of individuals suspected of illegally providing funds to overseas terrorist groups is both a law enforcement investigation and an intelligence effort.

So I hope to offer an amendment, and would like to work with both Senators, the chairman and the ranking member, to clarify these definitions and remove the poorly worded 'carve out' for 'counterintelligence' investigations; to ensure that the Office of Intelligence is defined in law, with clear responsibility for foreign intelligence; and to ensure that the new National Intelligence Director plays a guiding role in the FBI's efforts to improve its ability to function as an intelligence agency.

Next, I am concerned that the bill leaves a similar ambiguity in the relationship between the authorities of the National Intelligence Director and the Secretary of Defense. This problem flows from the fact that the bill refers to a tactical military intelligence, but does not define it.

I believe we can remove a potential source of contention between the director of national intelligence and the Secretary of Defense by incorporating a set of definitions, so everyone knows exactly what is tactical intelligence and, thus, outside the scope of the National Intelligence Director's review. So we have that language and I would like to pass it by the chairman and ranking member before I offer it, which would include a clarifying definition.

Finally, I must say -- and this I have gone back and forth on -- I remain troubled that under this bill the Director serves at the pleasure of the President. When I introduced my first bill in 2002, the Director served at the pleasure of the President.

When I introduced the second one in 2003, the director served at the pleasure of the President. Then I began to think about policy and intelligence and recognized that the two should remain separate, and I recognized that it is necessary to give this new National Intelligence Director some separation from the President's policies, or the Congress's policies. The only way to do this is with a term. I know that the Senator from New Jersey, Senator Lautenberg, offered in committee a 5-year term. I believe he was not successful in pressing his case at that time. I have thought about a 10-year term.

I remember the Casey days. I do not think we want to go back to those days, but I also think we need to keep policy and intelligence separated. So I hope Senator Lautenberg will offer his amendment, and I will support it if he does.

Before I end, I want to say a few words about practical considerations related to the bill. It is my understanding that the House of Representatives may pass out a bill containing extremely controversial provisions unrelated to intelligence reform. I am concerned that this is a thinly veiled effort to introduce a poison pill into desperately needed legislation. One House Member even referred to having Democrats 'over a barrel' in a description of this strategy. This is no strategy at all. I think if this were to happen, and I certainly hope it does not happen, Americans are going to see right through it.

The Senate, in this bill, has set the tone, and the tone is a well-considered, well-crafted bill which deals solely with the issue at hand. In my view, that is what should be passed by both parties and both bodies.

I am hopeful that our leadership -- the majority and the minority leaders -- will be able to make every effort to resist this. I think to get into PATRIOT Act items -- this is under the jurisdiction of the Judiciary Committee. We have held several hearings. We will hold more oversight hearings. There are 156 sections of the PATRIOT Act; 16 of them sunset in December of next year. We will do our due diligence, and I say that as someone who has supported the PATRIOT Act, supported those 16 sections, and made some of the amendments.

It is extraordinarily important that we be able to work in a careful method of oversight responsibility. I think something coming from the House which pushes in this direction would not be welcome.

In conclusion, I, once again, compliment Senators Collins and Lieberman and the Governmental Affairs Committee for a job well done. I think we can pass this bill, and I hope we continue -- I was going to say an aroma of bipartisanship. I am not sure aroma is the right way to say this, but in the bipartisanship model both the chairman and the ranking member have set forward. If we do, I think we deliver for the people of this Nation a very fine work product."

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